

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deree J. Norman)	
5367 Thomas Ave)	
Philadelphia, PA 19143)	
)	C-2015-2472605
Complainant)	
)	
Vs.)	
)	
PECO Energy Company)	
Exelon Business Services)	
2301 Market Street S23-1)	
Philadelphia, PA 19103)	
)	
Respondent)	

EXCEPTIONS OF COMPLAINANT DERE E J. NORMAN

Pro Se Complainant Deree J. Norman’s objections and responses to the Initial Decision of Administrative Law Judge Mary D. Long pursuant to 52 Pa. Code §§5.533

EXCEPTIONS TO FINDINGS OF FACT

1. The Complainant, Deree J. Norman, resides at 5367 Thomas Avenue, Philadelphia, Pennsylvania where he receives electricity service from PECO. (N.T. 47)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long’s conclusion.

- a) *Moreover, the Complainant has been denied access to the written record of the hearing held on October 29, 2015. As per Sue (no last name given) of the PUC, the PUC will not make the record available at its Philadelphia location. This is in direct conflict with 52 PA Code §§1.71 and 1.72 of making Court records available for public viewing. In addition, the Honorable Mary D. Long failed to rule on the Complainant’s In Forma Paupers petition, the granting of which would have entitled the Complainant to a copy of the record at no cost. (See PA R. C. P. 240 (a) and (b)).*

2. PECO is a jurisdictional public utility.

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

3. The Complainant has lived at the service address since 2004 or 2005 (N.T. 5)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

4. The Complainant lives alone. (N.T. 56)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

5. The Complainant's home is a row home. (N.T. 57-58)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

6. The Complainant's electrical appliances include two televisions, one laptop, one vacuum cleaner, one toaster, one can opener, one George Foreman grill, one refrigerator/freezer, one range, one nebulizer, one C-Pap machine, one air purifier, one air conditioner, one steam mop, two DVD players, one lamp, seven light bulbs, a circular saw, two radios, one iron, one heating pad, one hair dryer, two sewing machines, one digital TV converter box, and some strands of Christmas lights. (N.T. 58-59)

OBJECTION

Complainant objects to the fact stating he is or ever has been in possession of an electric range at his home at 5367 Thomas Ave.

RESPONSE

The Complainant does not have nor has he ever had an electric range at his residence. This is not a fact and calls into question the credibility of the source of this false information.

7. The Complainant also has three ceiling fans with light fixtures. (N.T. 79)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Petitioner concurs with Judge Long's conclusion.

8. The Complainant's home was heated by gas, but in 2009 the gas was disconnected due to a gas leak and has not been used since. (N.T. 59)

OBJECTION

Complainant objects to this statement as it is a misrepresentation of facts.

RESPONSE

The Complainant's home was heated by kerosene heaters prior to 2009. In 2009 a non-operation house heater was disconnected from the gas line due to a leak. A recapitulation of gas bills submitted by the Complainant as Exhibit 9 clearly shows that the gas used at the Complainant's residence could not have heated his home.

9. The meter at the service address is an AMR meter identified by meter number 107316622. (N.T. 147; Ex. C-14)

OBJECTION

Complainant objects to the mischaracterization of his meter as an AMR meter.

RESPONSE

The manufacture of the Centron meter which is currently installed at the Petitioner's residence clearly establish that the meter identified by meter number 107316622 is a digital meter with two way communication capabilities (*See Complainant's Exhibit 14*). Furthermore AMR refers to the operating system of which electrical information is transferred not the type of meter. There are two types of meters that record electrical data: 1) Analog and 2) Digital. Digital meters can function on two different operating systems which are: AMR (Automatic Meter Reader System) or AMI (Advanced Meter Infrastructure System). All Digital meters have two way communication capabilities. This is not a fact and calls into question the credibility of the source of this false information.

10. The meter installed at the service address is an AMR meter which does not have the ability to receive communication from PECO; it can only send information to PECO. (N.T. 85; 213; 232-33)

OBJECTION

Complainant objects to the mischaracterization of his meter as an AMR meter.

RESPONSE

A mere statement from a Respondent denying an averment or simply stating the exact opposite is not an affirmative defense and thereby not a fact. Given the fact that PECO has not submitted a curriculum vitae for any of its witnesses, there is no support to the above statement. However, when documented evidence supports the averment and the Respondent has offered no documented evidence to contradict the supported averment, the Finder of fact must rule in support of the evidence. (*See: Burch v. Reading Co., 240 F.2d 574 (3d Cir. 1957) cert. denied, 353 U.S. 965 (1957)*). Also (*See: Response 9 above.*)

11. Readings from the Complainant's AMR meter are transmitted to PECO daily. (N.T. 201)

OBJECTION

Complainant objects to the mischaracterization of his meter as an AMR meter.

RESPONSE

This is an unsupported statement from a non-expert. PECO has never provided a copy of recorded daily readings. (*See Response 10 above*)

12. The meter on the house communicates with the "MCC", which is a device on a pole within a neighborhood of properties. (N.T 203)

OBJECTION

Petitioner objects to the characterization of a "MCC"

RESPONSE

This is an unsupported statement from a non-expert. PECO has never provided any physical record to validate this statement (*See Response 10 above*)

13. At midnight the MCC transfers the meter readings to PECO's customer information system, known as CIMS. (N.T 203-204)

OBJECTION

Complainant objects to the characterization of a transfer from "MCC" to CIMS

RESPONSE

As per PECO's meter to cash billing system, meter data is transferred from CEDAR into CIMS. There are no supporting documents identifying the "MCC".

14. PECO has not yet installed an AMI or "smart meter" at the Complainant's service address. (N.T. 213)

OBJECTION

Complainant objects to the mischaracterization of an AMI meter.

RESPONSE

AMI (Advanced Meter Infrastructure) is a computer operating system. This system communicates with digital meters only. The Complainant's meter is a digital meter "smart meter" that is capable of functioning on both the AMR and AMI systems.

15. Only actual data is transmitted to PECO from the Complainant's meter; no statistical data is transmitted to PECO from the Complainant's AMR meter. (N.T. 213-14)

OBJECTION

Complainant objects to the mischaracterization of his meter as an AMR meter as well as the denial of statistical data being transmitted.

RESPONSE

This is an unsupported statement from a non-expert. PECO has never provided any physical record to validate this claim (*See Response 10 above*)

16. None of the Complainant's bills were based on estimated meter readings; all the meter readings were actual readings. (N.T. 205)

OBJECTION

Complainant objects to the reference to actual readings.

RESPONSE

All Customer readings including the Complainant's are gather processed through multiple algorithms and then are altered and or manipulated by PECO in the CEDAR system process. This data is sent back to each meter and synchronized with PECO's CIMS system. This is why PECO cannot produce a hard copy of the alleged daily readings.

17. Mary McQuilken, a PECO high bill field technician, visited the service address in August 2011. (N.T. 82; Ex. P-10)

OBJECTION

Complainant objects to Mary McQuilken's testimony as inadmissible due to witness and evidence tampering.

RESPONSE

During her testimony Ms. McQuilken was clearly being coached by her supervisor Mr. Lerro. (See Judge Long's October 29, 2015 statement to witness) also (See Judge Long January 21, 2016 pretrial instructions). The interaction with Mr. Lerro resulted in Ms. McQuilken giving inconsistent and conflicting testimony. Ms. McQuilken stated she completed the August 2011 field test at the Complainant's home. She also stated that she terminated the August 2011 field test after learning the Complainant had no issues with the functionality of the meter. Ms. McQuilken also stated the Complainant terminated the August 2011 field test and refused to let her continue. Ms. McQuilken testimony was further conflicted by her admission of visiting every room in the Complainant's home to do an appliance verification. In addition, Ms. McQuilken was intentionally denied access to the Complainant's Exhibit by PECO's council. This action made it impossible for the Complainant to question or cross examine this witness.

18. Ms. McQuilken read the meter and calculated the Complainant's average daily usage from the Complainant's last bill reading. (N.T. 84)

See Objection and Response to 17 above

19. Ms. McQuilken clocked the meter using a stopwatch to measure how many watts are flowing through the meter. (N.T. 132-33)

See Objection and Response to 17 above

20. Ms. McQuilken inventoried some of the appliances that she could see during her visit, but did not perform a complete inventory. (N.T. 82; 134)

See Objection and Response to 17 above

21. Ms. McQuilken asked to see the kerosene heaters that the Complainant said he used to heat his home during the winter, but he told her that they had been sent out for service. (N.T. 84; see also N.T. 75-76)

See Objection and Response to 17 above

22. Ms. McQuilken and Mr. Lerro visited the service address on September 24, 2015 for the purpose of a high bill investigation. (N.T. 139; Ex. P-12)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

23. Ms. McQuilken and Mr. Lerro were accompanied by Mike Janiszewski, an electrician hired by the Complainant. (N.T. 78; 139; 186)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

24. Ms. McQuilken, along with Mr. Lerro and Mr. Janiszewski, went from room to room to list every appliance that they saw. (N.T. 139)

OBJECTION

Complainant objects to the statement that Mr. Lerro and Mr. Janiszewski, went from room to room to list every appliance that they saw.

RESPONSE

Ms. McQuilken for the second time, did the appliance inventory alone Mr. Lerro and Mr. Janiszewski did not accompany her from room to room. During the appliance verification Mr. Lerro took it upon himself to illegally take photos of other areas of the Complainant's home. PECO submitted one of the ill-gotten photos as an exhibit during the hearing.

25. In addition to a pass load test, Ms. McQuilken performed an actual meter test to verify the accuracy of the meter, which involved pulling the meter out of the meter board, and placing a tester in the unit. (N.T. 140, 148; 187)

See Objection and Response to 17 above

26. The actual meter test indicated that the meter was operating properly. (N.T. 149; Ex. P-13)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

27. There was no foreign wiring at the property. (N.T. 188)

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

28. The appliance usage used on the PECO utility report is an estimate of a potential average that could be used at the property based on national averages. (N.T. 94; Exs. P-10-11)

OBJECTION

Petitioner objects to this statement in its entirety

RESPONSE

PECO appliance usage report is NOT an estimate of a potential average that could be used at any property based on any national averages. PECO utility report has been proven to be fictitious and overinflated by 300 to 600 percent, however Judge Long has chosen to ignore these facts supplied by the Complainant from the United States Department of Energy.

29. Ms. McQuilken calculated that the potential winter use based on the appliances that she saw was 717 kWhs per month. (N.T. 142; Ex. P-12)

See Objection and Response to 17 above

30. Ms. McQuilken calculated that the potential summer use based on the appliances that she saw was 677 kWhs per month. (N.T. 143; Ex. P-13)

See Objection and Response to 17 above

31. The Complainant's consumption in kWh during the winter of 2010-2011 was:

Sept	378
Oct	169
Nov	282
Dec	1084
Jan	982
Feb	585
Total	3480

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

32. The Complainant's consumption in kWh during the winter of 2011-2012 was:

Sept	166
Oct	143
Nov	150
Dec	142
Jan	141
Feb	124
Total	866

OBJECTION

Complainant objects to the lack of and or failure to explain the large variance from 2010-2011 to the 2011-2012 billing cycle.

RESPONSE

Given the fact that the above depiction does not show the Complainant's corresponding gas bills (*See Complainant Exhibit 9*) an obscure overview of this matters portrays a misleading conclusion and therefore becomes prejudicial to the Complainant. Focusing on the month of December, how does the Finder of Fact explain a 663.38% decrease in electric kWh used but the gas in the home (which the Finder of Fact determined was disconnected in 2009) records less than 25 Ccf. In both 2010-2011 and 2011-2012 billing cycles. This amount of gas is the maximum output for a hot water heater used by one person.

Question: How was the Complainant heating his home?

33. The Complainant's consumption in kWh during the winter of 2012-2013 was:

Sept	121
Oct	126
Nov	192
Dec	255
Jan	301
Feb	310
Total	1305

See Objection and Response 32 above

34. The Complainant's consumption in kWh during winter of 2013-2014 was:

Sept	221
Oct	484
Nov	1245
Dec	1505
Jan	1273
Feb	973
Total	5701

See Objection and Response 32 above

35. The Complainant's consumption in kWh during the winter of 2014-2015 was:

Sept	194
Oct	117
Nov	455
Dec	632
Jan	690
Feb	540
Total	2628

See Objection and Response 32 above

- 36.** The Complainant's usage for the winter of 2015 was consistent with the potential usage calculated by Ms. McQuilken. (N.T. 144-45)

See Objection and Response 17 above

- 37.** Christmas lights and space heaters are high consumption generators. (N.T. 211)

OBJECTION

Complainant's objection is to the relevance of this statement.

RESPONSE

The Complainant has never used space heaters in the property and has not used Christmas lights since 2006.

- 38.** The seasonal usage pattern at the Complainant's service address is variable. (N.T. 206; Exs. C-10; P-15)

OBJECTION

Complainant objects to this valuation.

RESPONSE

The proposed seasonal usage pattern is fraudulent

- 39.** All of the billing cycles for Complainant's bills for the periods between October 2010 through October 2015 were between 26 and 35 days in length. (N.T. 219-20; Ex. C-9; Ex. P-15)

OBJECTION

Complainant objects to this false statement

RESPONSE

Complainant's bill from 12/9/2010 – 12/31/2010 is only 22 days. While Complainant's bill from 12/31/2010 – 1/12/2011 is only 12 days.

EXCEPTIONS TO CONCLUSIONS LAW

- 1.** The Commission has jurisdiction over the parties and subject matter of this dispute. 66 Pa.C.S. § 701.

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

2. The Complainant bears the burden of proof. 66 Pa. C.S. § 332.

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

3. The Complainant failed to prove that his consumption was not reported accurately to PECO's billing system. 66 Pa. C.S. § 332.

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

4. PECO did not violate Section 56.2 of the Commission's regulations. 52 Pa.Code § 56.2.

RESPONSE

Subject to and without waiving the right to object to the admissibility of this information at further litigation of this matter, Complainant concurs with Judge Long's conclusion.

5. The Complainant's proposed exhibits which purported to include historical weather data were properly excluded from evidence. *Gibson v W.C.A.B.*, 861 A.2d 938 (Pa. 2004).

OBJECTION

Complainant objects as that his exhibits were illegally excluded from evidence as a result of PECO's attorney. Mrs.

RESPONSE

During the telephonic hearing the Complainant learned that PECO's witnesses were not supplied with copies of his exhibits yet they were supplied with copies of PECO's revised exhibits that were distributed two days after PECO had received the Complainant's exhibits. In addition, the Complainant was informed that he could not question PECO's Counsel in relation to his exhibits although she acknowledged that they were in her possession. The Complainant was instructed to proceed with his case. As a result of PECO's willful transgression and the Administrative Judges failure to declare a mistrial, the Complainant couldn't completely and or adequately conduct the direct examination of PECO's witnesses nor could he introduce viable evidence that

would prove his case. PECO's actions presented an unfair, unduly, unreasonably oppressive and or highly prejudicial burden on the Complainant's ability to prove his case.

Pursuant to 18 Pa. C. S. § 4910 (**Tampering with or fabricating physical evidence**) which states - A person commits a misdemeanor of the second degree if, believing that an official proceeding or investigation is pending or about to be instituted, he: (1) alters, destroys, conceals or removes any record, document or thing with intent to impair its verity or availability in such proceeding or investigation;

- A. Respondent intentionally *concealed* the Complainant's exhibits for trial from its own witnesses thereby rendering the *documents* submitted as exhibits for trial *unavailable*.
- B. Respondent introduced at trial, (PECO Trial Exhibit 6) a series of *altered* entry's depicted as selectively subjective recapitulations of PECO's work records representing the Complainant's contract history. The alleged entries were not a direct download or print out from PECO's system but were an adaptation of incomplete facts and or inaccurate information.
- C. Pursuant to 18 Pa. C.S. § 4952 (Intimidation of witnesses or victims) – (i.e. witness tampering) which states - A person commits an offense if, with the intent to or with the knowledge that his conduct will obstruct, impede, impair, prevent or interfere with the administration of criminal justice: The Crime hear being Fraud as established below. (See Count 3)
- D. The Respondent's transgressions identified in (A) clearly shows Respondent's intentional omission of the Complainant exhibit for trial as a ploy to prevent the administration of the Complainant's case. This deliberate failure to provide its own witnesses with copies of the Complainant's exhibits directly affected the Complainant's ability to proceed with his case. This undoubtedly created an unfair burden on the Complainant in relation to proving his case. This action is tantamount to witness tampering by way of obstruction, prevention and interference. In light of the fact that the Complainant properly and timely

submitted copies of his exhibits for the telephonic hearing to both PECO, addressed to the attention of Shawane Lee Esq., and The Pennsylvania Utility Commission, addressed to the attention of the Honorable Mary D. Long, coupled with PECO's acknowledgement of timely receiving said exhibits, PECO failure to provide its witnesses with copies of the Complainant's exhibits during the telephonic hearing is also a clear and concise violation of the PA Rules of Professional Conduct.

August 17, 2016

By: /s/ Deree J. Norman
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